

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

KENNETH BAKER,  
#110154,

Plaintiff,

V.

SHERIFF MAXEY CERLIANO, et al.,

Defendants.

§ § § § § § § § § § § § § § § §

Case No. 6:24-cv-106-JDK-KNM

**ORDER ADOPTING THE REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Kenneth Baker, an inmate of the Smith County Jail proceeding *pro se* and *in forma pauperis*, filed this lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition.

All claims against Defendant Cerliano were previously dismissed with prejudice for failure to state a claim. Docket No. 19. On December 6, 2024, Judge Mitchell issued a Report recommending that the Defendants' motion for summary judgment for failure to exhaust administrative remedies be granted and that all claims against them be dismissed without prejudice be granted and the case be dismissed with prejudice. Docket No. 42. A copy of this Report was sent to Plaintiff. Docket No. 43. However, no objections have been received.


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and

Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 42) as the findings of this Court. Defendants' motion for summary judgment (Docket No. 27) is **GRANTED**, and this case is **DISMISSED** without prejudice for failure to exhaust administrative remedies. All pending motions are **DENIED AS MOOT**.

So **ORDERED** and **SIGNED** this **28th** day of **January, 2025**.

  
JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE